

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FOUR SEASONS NURSING CENTER

Plaintiff,

CIVIL ACTION NO. 04-CV-74614-DT

vs.

DISTRICT JUDGE VICTORIA A. ROBERTS

WEBER MEDICAL SYSTEMS, INC.  
et al,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

**OPINION AND ORDER GRANTING NON-PARTY GAMBRO HEALTHCARE INC.'S  
MOTION FOR PROTECTIVE ORDER BROUGHT PURSUANT TO FRCP 45(C)(3)(A)  
(DOCKET # 36)**

On August 1, 2006 non-party Gambro Healthcare, Inc. ("Gambro") filed a Motion for a Protective Order pursuant to Federal Rules of Civil Procedure 45(c)(3)(A) (Docket # 36). Plaintiff responded to Gambro's motion on August 10, 2006. District Court Judge Victoria A. Roberts referred said motion to the undersigned for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A). Plaintiff and Gambro appeared through counsel for oral arguments on September 26, 2006. This motion is now before this Court.

\* \* \* \* \*

Gambro seek an order quashing or modifying Plaintiff's subpoenas dated 5/15/06 and 7/18/06 wherein Plaintiff seeks the production of certain documents. Specifically, Gambro contends that Plaintiff's subpoena requests are overly broad and unduly burdensome and should either be quashed or more narrowly tailored. Plaintiff responds that it cannot tailor its requests as suggested by Gambro and that Gambro has not shown

that its compliance with Plaintiff's subpoena requests would be unduly burdensome. Plaintiff also seeks sanctions against Gambro for its failure to comply with Plaintiff's subpoena requests.

Based upon the parties' pleadings and arguments at the hearing, the Court hereby **GRANTS** Gambro's Motion for a Protective Order (Docket # 36) for the reasons stated on the record at the September 26, 2006 hearing.

The Court therefore **ORDERS** the following:

1. Plaintiff's subpoena issued to Gambro and dated 5/15/06 is hereby **QUASHED**.
2. Plaintiff's subpoena issued to Gambro and dated 7/18/06 is hereby **MODIFIED** as follows pursuant to the parties' discussion on the record at the September 26, 2006 hearing:
  - a. Plaintiff's Request for Production of Documents no. 1 is **STRICKEN** in its entirety.
  - b. Plaintiff's Request for Production of Documents no. 2 is **AMENDED** to read: (i) "Any documentation establishing the dates of Gambro Healthcare's involvement with the Four Seasons Nursing Center's Dialysis Unit/Project; (ii) "Any documentation relative to Gambro Healthcare's repair to or installation of the water distribution system of the Four Seasons Nursing Center's Dialysis Unit/Project from October 2001 through May 2004; and (iii) "Any written correspondence between Defendants, their agents and employees, and Gambro Healthcare, between April 2002 and January 2004, wherein Gambro Healthcare identifies problems and issues with the Four Seasons Nursing Center's Dialysis Unit/Project and water treatment system and makes recommendations to the Defendants to ameliorate said problems and issues.
  - c. Plaintiff's Request for Production of Documents no. 3 is **AMENDED** to read: "Any and all logs or records (originals or copies) applicable to all water culture samples and/or testing regarding the Four Seasons Nursing Center Dialysis Unit/Project from October 2001 through May 2004."

The Court further **ORDERS** Gambro to respond to Plaintiff's modified Subpoena dated 7/18/06 **on or before October 26, 2006** in manner consistent with this Order.

The Court hereby **DENIES** Plaintiff's request sanctions against Gambro. The Court, in its discretion, concludes that the facts presented on the record do not warrant the imposition of sanctions at this time.

**IT IS SO ORDERED.**

**Notice to the Parties**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: October 3, 2006

s/ Mona K. Majzoub  
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**MONA K. MAJZOUB**  
**UNITED STATES MAGISTRATE JUDGE**

**PROOF OF SERVICE**

I hereby certify that a copy of this order was served upon Counsel of Record on this date.

Dated: October 3, 2006

s/ Lisa C. Bartlett  
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**Courtroom Deputy**